

1957.



File No. O. Treasure

Legal Dept. *Trove / 17*

A BRANCH

Subject:—

*Opinions under the
Treasure Trove Act-1878*

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C O N T E N T S

Legal Department File No O. Treasure Trove /51

<u>Sr. No.</u>	<u>R. I. / O. No.</u>	<u>Subject</u>	<u>Pages.</u>
		<u>Treasure Trove Act, 1878.</u>	
1.	<u>14139</u> 4.9.54	Whether the foundation of the house wall where gold & hure were found can be considered as soil within the meaning of the definition of "Treasure" as defined in the Act	1-2
2.	<u>15060</u> 21-9-51	Whether the Collector can declare the Treasure (incharges) as belonging to Govt. under the Act or whether it can be left to Govt to decide regarding the disposal of the said Treasure	3-4

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Treasure
Trove Act
1878
section 3.

It appears that on the 7th May 1947, when the western wall of the house of Shri Narappanavar was being removed, the coolie Shri Advayya found a brass pot containing 926 gold mohurs, in the foundation of the wall. Shri Narappanavar took possession of the whole stock and attempted to dispose of a part of it at Hubli and the police attached it. The Mamlatdar, Hubli, later on visited the village and attached the rest of the gold mohurs from the possession of Shri Narappanavar. Later on both Narappanavar and Advayya were prosecuted under the Treasure Trove Act, 1878, but the prosecution was withdrawn. Shri Narappanavar gave a notice of suit to Government for the return of the gold mohurs, but he did not actually file any suit. The Collector and the District Magistrate, Dharwar passed the final order of disposal of the treasure on the 28th June 1951 directing that the treasure trove of 926 gold mohurs should vest in Government. On these facts, R.D. has raised a doubt whether the foundation of the house wall where gold mohurs were found can be considered as soil within the meaning of the definition of "treasure" as defined in the Treasure Trove Act. R.L.A. requested to advise.

2. 'Treasure', is defined in section 3 of the Treasure Trove Act to mean "anything of any value hidden in the soil, or in any thing fixed thereto". Soil means the superficies of the earth on which buildings are erected or may be erected. The soil is the principal, and the building, when erected, is the accessory' (See Iyer's Law Lexicon page 1202). It is, therefore, apparent that the foundation of the wall is soil within the meaning of the definition of "treasure" in section 3.

3. In the present case, Shri Advayya was the finder of the gold mohurs. He failed to give notice as provided under section

4. Narappanavar, the owner of the house, took possession of the gold mohurs and tried to dispose of them. Consequently, it appears the order of the Collector directing that the gold mohur should vest in Government is justifiable under section 20 and 21 of the Treasure Trove Act.

Sd/- P.M.Lad

O.C.
Additional Secretary to Government.

U.R. to R.D., No. 14139, dated the 4th September 1951.

Office of the R.L.A.

It appears that the Collector of Baroda has issued a notification under section 5(a) of the Indian Treasure-trove Act, 1878, fixing a period of four months within which the claims, if any, should be put in. That period will expire on the 25th November 1951 on which date the Collector will have to decide whether the treasure is or is not ownerless. If it be found ownerless, a declaration to that effect will have to be made under section 9. If Government does not desire to acquire the treasure under section 16, the Collector will have to divide the treasure between the finder and the owner of the place in accordance with the provisions contained in section 11, 12, 13 and 14. If, however, Government desires to acquire it, the Collector will have to declare by writing under his hand his intention to ~~xxxx~~ acquire on behalf of Government the treasure by payment to the persons entitled thereof a sum equal to the value of the materials of such treasure or portion together with one-fifth of such value and may place such sum in deposit in his treasury to the credit of such persons (see section 16.) . The Collector cannot, therefore declare the treasure (images) as belonging to Government under the Treasure-trove Act; nor can it be left to Government to decide regarding the disposal of the said treasure. The procedure prescribed under the Indian Treasure-trove Act will have to be strictly followed-

Sd/- J.R.Dhurandhar
o.c. 20/9
Remembrancer of Legal Affairs.

U.R. to R.D., No. 15060, dated the 21st September 1951.